

## REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

### **I. Introduction**

Claims 33-38, 50-58 and 61-64 are now pending in this application. Claims 50-58 and 61 are withdrawn from consideration. Claims 59-60 have been cancelled. Claims 33-35, 37, 50-51, 54-56, 58 and 63 have been amended. No new matter was added.

Claims 33-35, 37, 50-51, 54-56 and 58 have been amended to clarify the meaning of the numbered layers in these claims, since the numbered layers in these claims were arguably susceptible to two different interpretations. Specifically, these claims have been amended to clarify that the number associated with each layer in the originally filed claims refers to the rail in which the layer is located, rather than to the consecutive number of such layers in the device. For example, since original claim 33 did not recite a *first* lightly doped semiconductor channel layer of the second conductivity type, claim 33 has been amended to clarify that the *second* lightly doped semiconductor channel layer of the second conductivity type refers to a *second-rail* lightly doped semiconductor channel layer of the second conductivity type, because this layer is located in the second rail. Likewise, the amendments clarify that the other layers are numbered by the rail in which they are located rather than being numbered in consecutive order. Furthermore, several typos in claims 33, 34, 37 and 54 have been corrected. Applicants submit that these clarifying amendments do not narrow the scope of the claims.

Claim 63 has been amended to clarify that the relationship of the transistor levels. Applicants submit that this clarifying amendment does not narrow the scope of the claim.

## **II. Rejoinder Requested**

Claim 50 has also been amended by reciting all limitations of independent claim 33. Applicants submit claim 50 now has the same or narrower scope as claim 33. Applicants request that method claims 50-58 and 61 be rejoined with device claim 33 under the rejoinder procedure of MPEP §821.04 because claim 33 is believed to be in condition for allowance for reasons which follow. Claims 51, 55, 56 and 58 have also been amended to update the antecedent basis of the elements of these claims in view of the amendment of claim 50.

## **III. The Objection Should Be Withdrawn**

The specification has been objected to because it does not list the parent application in the first paragraph. Applicants note that the USPTO has waived the requirement for the specification of a divisional application to refer back to the parent application when the divisional application is filed with an Application Data Sheet (ADS) which references the parent application. See MPEP § 601.05 and 37 CFR § 1.76(b)(5).<sup>1</sup> The present application has been filed with an ADS which references the parent application. Applicants respectfully submit that the present specification does not need to reference the parent application for this reason and respectfully request a withdrawal of the objection.

## **IV. The Rejection Should Be Withdrawn**

Claims 33-38 and 62-64 have been rejected under the doctrine of obviousness type double patenting over claims 1-37 of U.S. Patent Number 6,737,675. This rejection is respectfully traversed.

U.S. Patent Number 6,737,675 issued from the parent application of the present divisional application. Applicants note that the examiner issued an election of species

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<sup>1</sup> 37 CFR § 1.76(b)(5) states: *Domestic priority information*. This information includes the application number, the filing date, the status (including patent number if available), and relationship of each application for which a benefit is claimed under 35 U.S.C. 119(e), 120, 121, or 365(c). Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and § 1.78(a)(2) or § 1.78(a)(4), and need not otherwise be made part of the specification.

requirement in the parent application in which claims 33-38 and 62-64 pending in the present application were part of one species and claims which issued as claims 1-37 in U.S. Patent Number 6,737,675 were part of another species or were directed to both species. In response to the election requirement in the parent application, applicants elected the species which generally correspond to claims 1-37 of U.S. Patent Number 6,737,675, and cancelled non-elected claims 33-38 and 62-64 to be pursued in the present divisional application.<sup>2</sup>

According to MPEP § 804.01 and the third sentence of 35 U.S.C. § 121, the USPTO is prohibited from issuing a double patenting rejection in a divisional application over the parent patent when the claims of the parent patent were restricted from the claims of the divisional application. According to MPEP § 804.01, this prohibition against double patenting rejection applies to requirements for restriction between the related subjects treated in MPEP § 806.04 (i.e., election of species requirements) through § 806.05(i).

Therefore, since claims 1-37 of the parent Patent Number 6,737,675 were restricted from the claims of the present divisional application in the parent application, the double patenting invention in the present divisional application is improper in view of MPEP §804.01 and 35 U.S.C. §121. Applicants respectfully request a withdrawal of the rejection.

## **V. Conclusion**

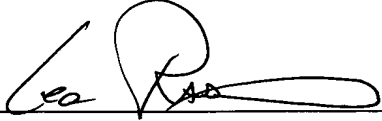
Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

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<sup>2</sup> Specifically, in the parent application, claims 11-12, 26-30, 33-38 and 62-64 corresponded to Species 1 drawn to the device of the first embodiment illustrated in Figures 1-7 of the application. Claims 13-15, 31-32 and 39-43 corresponded to Species 2, drawn to the device of the second embodiment illustrated in Figures 8-9 of the application. Claims 1-10, 16-25, and 65-72 were directed to both Species 1 and 2. Claims 1-10, 13-25, 31-32, 39-43 and 65-72 were elected for examination in the parent application and non-elected dependent claims 11-12 and 26-30 were rejoined upon allowance of the independent claims from which they depended. Claims 33-38 and 62-64 were not rejoined and were cancelled to be pursued in the present divisional application. Claims 1-32 and 39-43 in the parent application issued as claims 1-37 in U.S. Patent Number 6,737,675. Thus, claims 1-37 in the parent patent 6,737,675 were restricted from claims 33-38 and 62-64 of the present application.

Respectfully submitted,

Date 1/24/05

By 

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The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.